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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/799,044

03/12/2004

Maxime Arthur Maurice Samain

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6709

29493

7590

09/19/2006

HUSCH & EPPENBERGER, LLC
190 CARONDELET PLAZA
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EXAMINER

HAWK, NOAH CHANDLER

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/799,044	Applicant(s) SAMAIN ET AL.	
	Examiner Noah C. Hawk	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3-12-04, 8-2-05</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. The amendment to the drawings dated 7/30/04 and the amendment to the claims dated 3/3/06 have been entered.

Claim Objections

2. Claim 17 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 17 restates the amended section of Claim 1 without further limiting the claim.
3. Claim 36 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 36 restates the amended section of Claim 20 without further limiting the claim.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the pair of cross bars wound around the side rails (as recited in Claims 3, 22 and 41), the links recited in Claims 10-11, 29-30 and 48-49, the actuator recited in Claim 13 and 32, and the transverse wires with differing bending stiffnesses recited in Claim 18, 37 and 51 must

be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "48 has been used to designate both an actuator and an end of the Bowden cable (see Figure 1). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being

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amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 13 recites "an actuator" operatively connected to the side rails which is not disclosed in the specification or the drawings.

8. Claim 32 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 32 recites "an actuator" operatively connected to the side rails which is not disclosed in the specification or the drawings.

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9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 20-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 20 recites two side rails with first and second portions having cross bars connecting the alternating portions of the side rails. It is unclear whether the first and second portion of each of the rails corresponds to the same on the other (if the top of one rail and the top of the other rail are both the first portion, for example) and whether the cross bars are portions of the side rails as depicted in the figures or if they are separate entities.

11. Claims 39-51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 39 recites the limitation "said opposite lateral wire" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

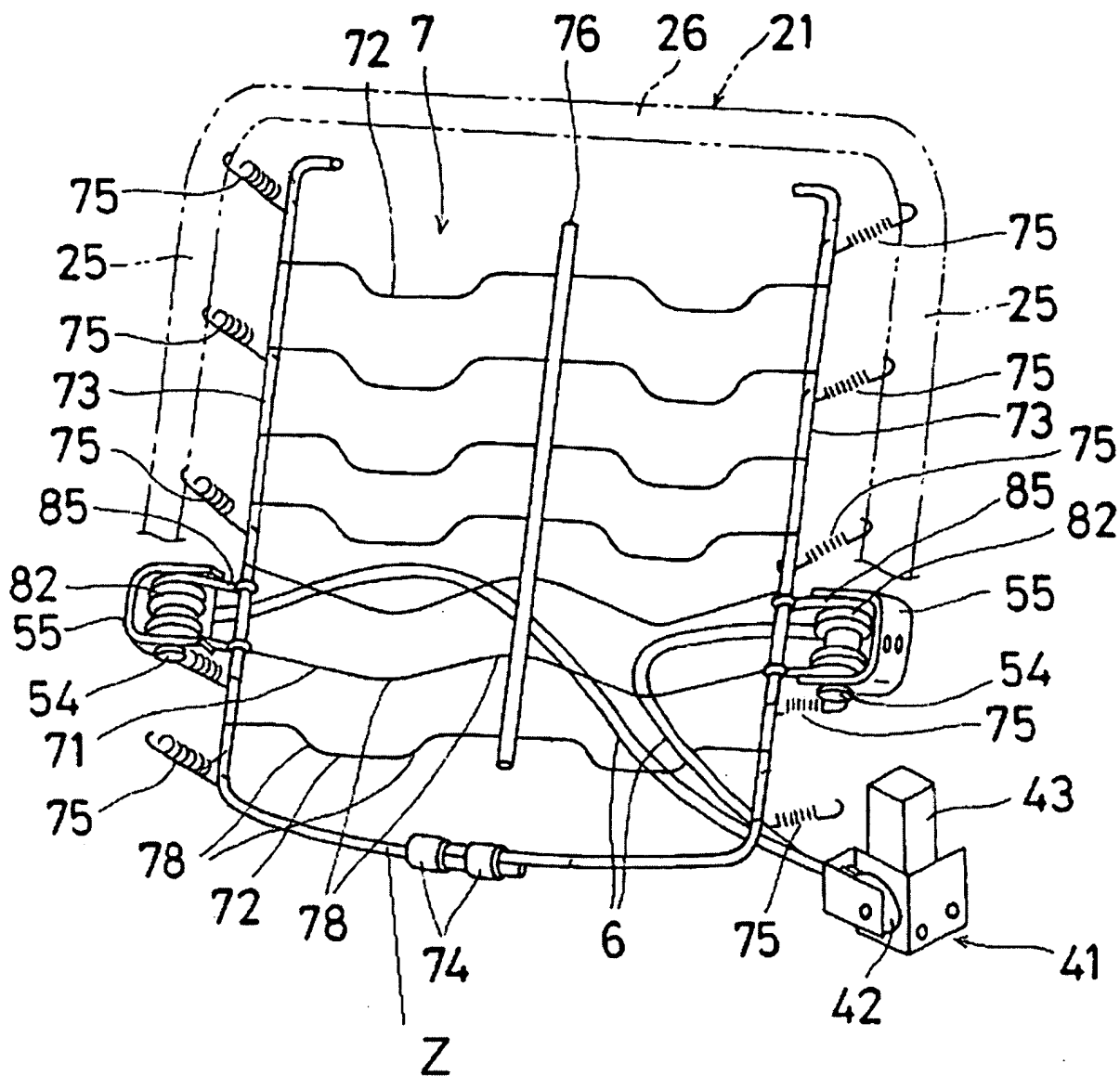
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

13. Claims 1, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakane et al. in US Patent 6499803. Nakane teaches a support structure having side rails (73), crossbars (Z) and a plurality of transverse wires (72) with an average bending stiffness less than that of the crossbars (the fact that the wires are thinner than the cross bars implies that they are less stiff than the cross bars.) Nakane further teaches a plurality of links (75) fixedly attached to the side rails and the seat frame (25).



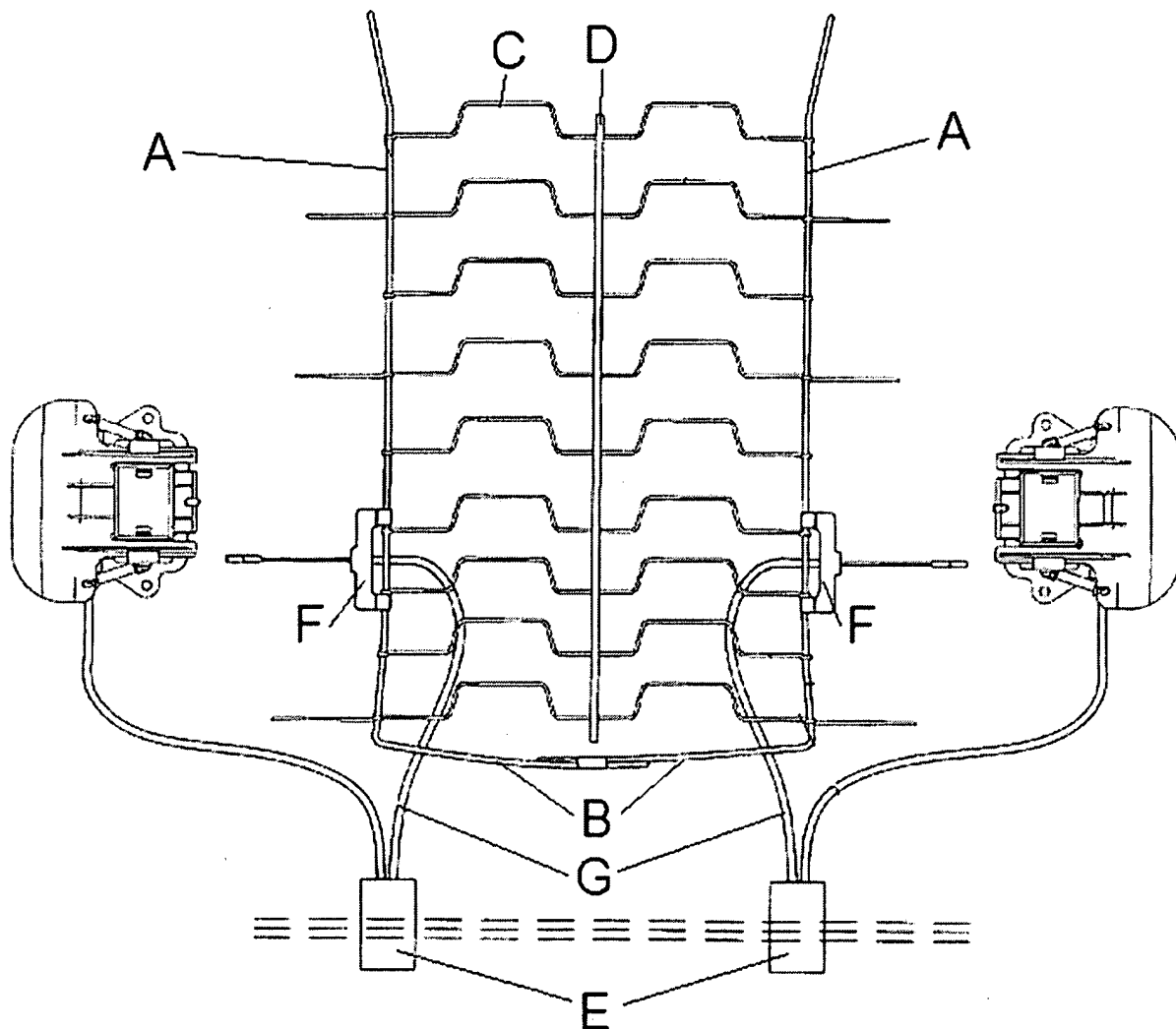
Nakane et al. '803, Figure 2

14. Claim 1, 2, 5-9, 12-17 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by McMillen et al. in US Publication 2004/0155501.

a. Regarding Claims 1 and 17, McMillen teaches a support structure comprising a pair of side rails (A, best seen in McMillen Figure 2, below), a pair

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of cross bars (B, formed by portions of the side rails) and a plurality of transverse wires (C) with a bending stiffness less than that of the crossbars (the fact that the crossbars are thicker than the transverse wires implies that the crossbars are stiffer than the wires).



McMillen et al. '501, Figure 2

- b. Regarding Claim 2, McMillen further teaches that the crossbars are fixedly attached to the side rails with a clip (best seen in McMillen, Figure 2).
- c. Regarding Claim 5, McMillen further teaches that the transverse wires incorporate angled portions.
- d. Regarding Claim 6, McMillen further teaches that the transverse wires are wound around the side rails (best seen in Figure 1).
- e. Regarding Claim 7, McMillen further teaches a seat frame (10) with the support structure suspended in the seat frame.
- f. Regarding Claims 8 and 9, McMillen further teaches that the transverse wires extend beyond the side rails to attach the support structure to the seat frame (best seen in McMillen, figure 1).
- g. Regarding Claim 12, McMillen further teaches a central longitudinal cord (D) fixedly attached to the midpoints of the transverse wires.
- h. Regarding Claim 13, McMillen further teaches an actuator assembly (E) operatively attached to the side rails.
- i. Regarding Claims 14-16, McMillen further teaches a pair of brackets (F) wherein one of the brackets is fixedly attached to one of the side rails, a pair of Bowden cables (G) with a first end slidably inserted through the brackets, and an actuator (E) fixedly attached to a second end of the Bowden cables.
- j. Regarding Claim 19, McMillen further teaches that the cross bars are extensions of a lower portion of the side rails.

15. Claim 52 is rejected under 35 U.S.C. 102(b) as being anticipated by Ronnhult et al. in US Patent 4627661. Ronnhult teaches a support structure comprising a pair of side rails (10) a cross bar in an X shape (19) extending between the side rails and a plurality of transverse wires (12) extending between the side rails having a bending stiffness less than that of the cross bar (the fact that the cross bar is thicker than the transverse wires implies that it is stiffer than the transverse wires).

Allowable Subject Matter

16. Claims 20-51 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

17. Claims 3, 4, and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maeyaert, Van-Thournout et al. and Mori disclose lumbar support structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Noah C. Hawk whose telephone number is 571-272-1480. The examiner can normally be reached on M-F 9am to 5:30pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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